

Express Mail No. EL 791521507US
Attorney Docket No. P9529
Client Matter 46234.0084

#3

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re U.S. Application of:

Victor D. Dolecek

Application No.: 09/832,518

Filed: 9 April 2001

For: AUTOLOGOUS PLATELET GEL HAVING
BENEFICIAL GEOMETRIC SHAPES AND
METHODS OF MAKING SAME

Group Art Unit:
Not yet Accorded

Examiner:
Not Yet Accorded

PETITION UNDER 37 C.F.R. 1.53(e)
FOR INCLUSION OF FIGURE FILED WITH ORIGINAL
NON-PROVISIONAL APPLICATION

Attn: Office of Patent Legal Administration
Assistant Commissioner for Patents
Washington, DC 20231

Sir:

Applicant hereby responds to an Notice of Omitted Items(s) in a Non-Provisional Application Filed Under 37 CFR 1.53(b) and respectfully petitions the U.S. Patent & Trademark Office for Inclusion of Figure 1, with the filing date of April 9, 2001 granted.

A Notice of Omitted Items(s) in a Non-Provisional Application Filed Under 37 CFR 1.53(b) was mailed August 16, 2001, a copy of which is attached. The Notice indicated that the U.S. Patent & Trademark Office did not receive Figure 1 in the above-referenced U.S. application as filed.

However, Figure 1 was enclosed with the original filing. The copy enclosed is from the file for this case maintained in undersigned law firm and copies at application filing.

The enclosed Figure 1 is consistent with the Figure 1 that was present in the application as signed and filed on April 9, 2001.

It is noted that the Certificate of Mailing filed with the U.S. Application lists the 39 sheets of Drawings as present. The return postcard also listed 39 sheets of Drawings as present. However, this office never received back the date stamped return card. A listing of

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number of sheets of figures would constitute *prima facie* evidence of receipt of all the figures, unfortunately our office did not receive the return postcard.

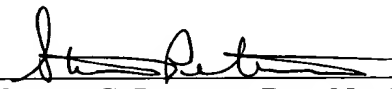
In particular, enclosed is the Declaration of Steven C. Petersen attesting to the standard procedures used to file U.S. Applications generally and the procedures employed for all 14 U.S. applications filed on April 9, 2001. The enclosed Declaration states that these procedures were followed when assembling, signing and filing application No. 09/832,518 and that Figure 1 was present at application assembly, signing and filing.

Please note that the undersigned, as the attorney of record, signed the Certificate of Mail after confirming all 39 sheets of Drawings were present. This signature constitutes a certification that Figure 1, as filed, was present. This signature should be entitled to sufficient evidentiary weight to allow the U.S. Patent & Trademark Office to include the enclosed Figure 1 filed with Specification for this case in its file and accord the filing date of April 9, 2000. Please note that in nine years of practice, the undersigned has never omitted a Figure in an application being filed.

Check No. 1573 in the amount of \$130.00 is enclosed to cover the cost of the petition fee under 37 CFR 1.17(h). Should any additional petition fee or other fee be associated herewith, please charge Deposit Account No. 50-1123. Please contact the undersigned with any questions regarding this matter.

Respectfully submitted,

October 16, 2001


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Group Art Unit:
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Examiner:
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DECLARATION OF STEVEN C. PETERSEN

Attn: Office of Patent Legal Administration
Assistant Commissioner for Patents
Washington, DC 20231

Sir:

I, Steven C. Petersen, do declare as follows:

1. I am Counsel with the law firm of Hogan & Hartson LLP. I joined Hogan & Hartson in March 2000, after practicing Chrisman, Bynum & Johnson, P.C., in Boulder, Colorado, since 1992. I am a patent attorney and have specialized in patent prosecution since 1992.
2. I received a B.S. in Biology from the University of Nebraska, in 1985. I received a J.D. from the University of Denver 1992.
3. On April 9, 2001, working with my staff, I completed the preparation and filing of 14 U.S. non-provisional applications (all of which were identical except for the claims) on behalf of Medtronic, Inc. One of the applications was the above-referenced U.S. Application No. 09/832,518 (Docket No. P9529).
4. My staff and I prepared and filed each of the 14 U.S. applications according to the standard procedures we follow for all of the U.S. applications our office files with the U.S. Patent & Trademark Office.

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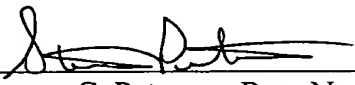
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5. As I had instructed my staff, each U.S. application and the associated filing documents are saved to our word processing document database. Labels are prepared for the accompanying figures with each label identifying my name and registration number, firm name and telephone number, docket number, client/matter number, express mail number and sheet number out of the total sheets being submitted. Each document is then printed shortly before document signing. Each label is printed out in duplicate and affixed to the originals and copies. Each complete application is presented to me separately, for my review prior to signing.
6. In accordance with our standard procedures and my standard practice, I separately review each U.S. application before I sign the patent transmittal form. I review and count the page numbers for each specification and confirm none has been omitted. I count the number of drawing sheets and confirm none has been omitted. On these particular filings I assisted in affixing the labels to the figures.
7. These procedures were strictly followed for all of the 14 U.S. non-applications filed April 9, 2001.
8. These procedures were strictly followed for 09/832,518 (Docket No. P9529). Enclosed herewith is a copy of the Utility Patent Application Transmittal form, postcard, Figure 1, label affixed to Figure 1, indicating that it was sheet 1 of 39 sheets, a copy of the certificate of mail indicating that 39 sheets of drawings were deposited as Express Mail from our firm's file, which evidence my filing of Figure 1.
9. A return postcard in this case was never received back from the U.S. Patent & Trademark Office. In the other 13 cases filed concurrently on April 9, 2001, return postcards were received.
10. I hereby declare that the original of the enclosed sheets were included in the above-referenced U.S. application as filed.
11. I hereby declare that all statements made herein of my own knowledge are true and all statements made on information and belief are believed to be true. I

further declare I understand that willful false statements and the like made herein are punishable by fine or imprisonment, or both (18 U.S.C. § 1001) and may jeopardize the validity of the above-referenced application or any patent issuing thereon.

Respectfully submitted,

October 16, 2001


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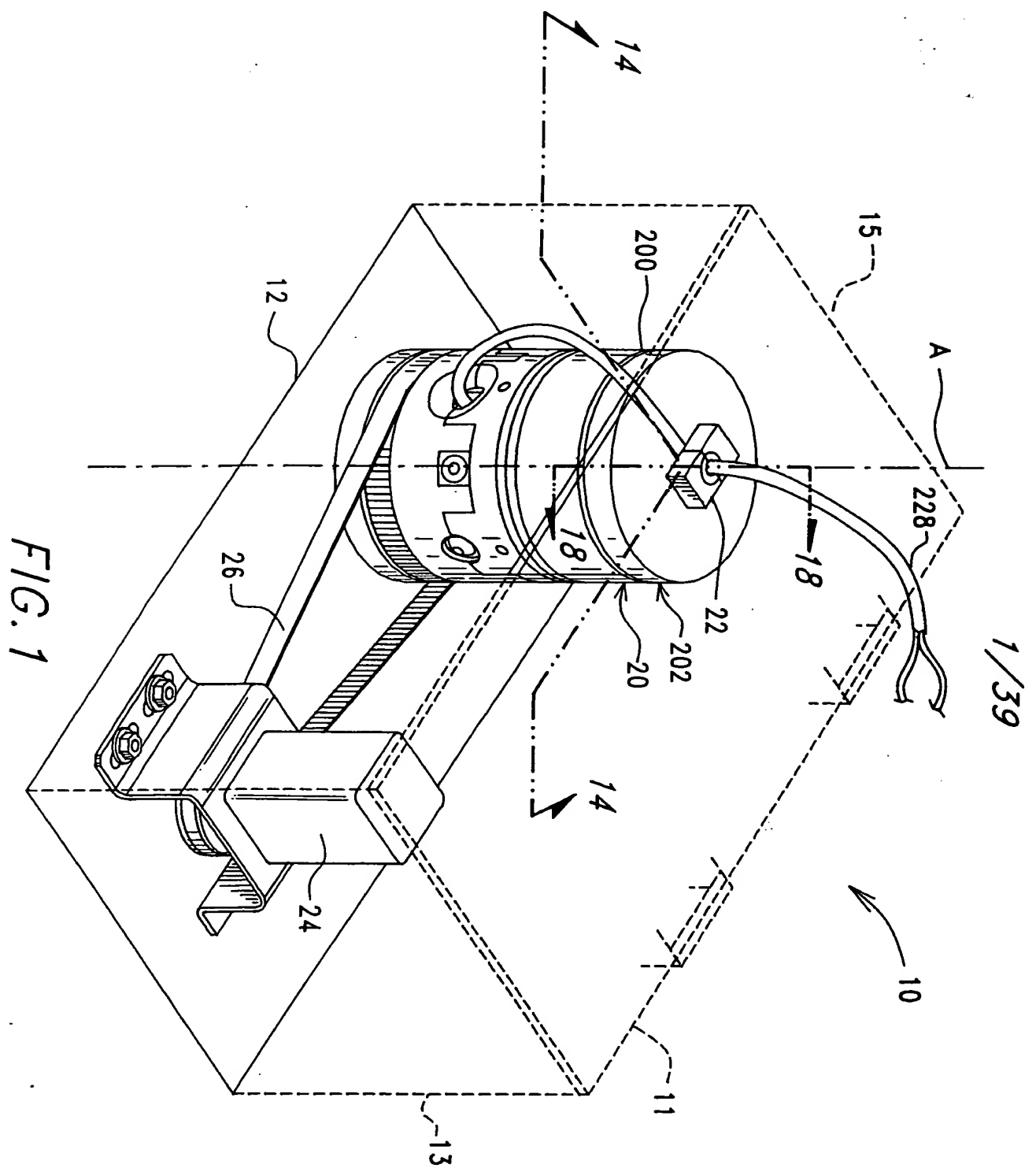


FIG. 1